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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,144	08/15/2001	Makoto Endou	NE229-US	8942
21254	7590	03/02/2006	EXAMINER	
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			NAJARIAN, LENA	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/929,144	Applicant(s) ENDOU, MAKOTO	
	Examiner Lena Najarian	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20010815</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements filed 08/15/01 and 9/24/03 fail to comply with 37 CFR 1.98(a)(3) because they do not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because its length exceeds 150 words. Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claim 3 is objected to because of the following informalities: the Examiner suggests "each users" in line 3 be changed to "each user". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Summerell et al. (5,937,387).

(A) Referring to claim 1, Summerell discloses a health care system comprising:

a user terminal; a network; a health care center terminal connected via the network to the user terminal and able to be accessed from the user terminal (col. 7, line 48 – col. 8, line 7 of Summerell); and

an analytic server for analyzing health information supplied from the user terminal, the analytic server being connected to the health care center terminal (col. 5, lines 60-67 of Summerell);

the health care center terminal having a diagnostic form display function for displaying on the user terminal a diagnostic form, in which a user can enter

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predetermined health information (col. 9, lines 15-25 and Fig. 4 – Fig. 6 of Summerell);

the health care center terminal also having a health information reception function for receiving the health information entered in the diagnostic form; the health care center terminal further having a health information transmission function for transmitting the received health information to the analytic server (col. 7, line 48 – col. 8, line 7 of Summerell);

the analytic server having a health information database associated with the entered health information (abstract of Summerell);

the analytic server also having a health analysis function for receiving the health information transmitted from the user terminal, and analyzing the user's health on the basis of the received health information and the health information database (abstract and col. 5, lines 60-67 of Summerell);

the analytic server further having an analyzed information transmission function for transmitting via the health care center terminal to the user terminal the information analyzed by the health analysis function (col. 5, lines 41-44 and col. 4, lines 42-57 of Summerell).

(B) Referring to claim 2, Summerell discloses wherein the analytic server further has a user information accumulation function for registering and accumulation the received health information for each user in the analytic server, the analytic server being adapted to analyze the user's health with the health analysis function on the basis of the health information accumulated for each user in the

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analytic server and the health information database (abstract and col. 5, lines 60-67 of Summerell).

(C) Referring to claim 3, Summerell discloses wherein the analytic server further has a database update function for updating the health information database for each user on the basis of the received health information (col. 4, lines 20-25 of Summerell).

(D) Referring to claim 4, Summerell discloses wherein the analyzed information includes a health judgment as to whether the health information entered by the user is a proper value or not (col. 4, lines 20-25 and col. 9, lines 6-14 of Summerell).

(E) Referring to claim 5, Summerell discloses wherein the analyzed information includes health guidance corresponding to the health information entered by the user (col. 4, lines 26-29 of Summerell).

(F) Referring to claim 6, Summerell discloses wherein the health information entered by the user includes diet information on the user (col. 5, lines 5-10 of Summerell).

(G) Referring to claim 7, Summerell discloses wherein the health information entered by the user includes diet information on the user, the health guidance including a diet menu based on the diet information (Fig. 24 and col. 5, lines 28-30 of Summerell).

(H) Referring to claim 8, Summerell discloses wherein the health information entered by the user includes exercise information on the user (col. 5, lines 5-10 of Summerell).

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(I) Referring to claim 9, Summerell discloses wherein the health information entered by the user includes exercise information on the user, the health guidance including an exercise menu based on the exercise information (col. 5, lines 28-30 of Summerell).

(J) Referring to claim 10, Summerell discloses wherein the health information entered by the user includes smoking information on the user (col. 4, lines 65-67 of Summerell).

(K) Referring to claim 11, Summerell discloses wherein the health information entered by the user includes drinking information on the user (col. 9, lines 32-42 of Summerell).

(L) Referring to claim 12, Summerell discloses wherein the analyzed information includes information about the danger of a life style (related) disease of the user based on the health information entered by the user (col. 1, lines 6-16 of Summerell).

(M) Referring to claim 13, Summerell discloses a health care process comprising the steps of:

displaying on a user terminal connected via a network to a health care center terminal a diagnostic form, in which a user can enter health information (col. 7, line 48 – col. 8, line 7, col. 9, lines 15-25, and Fig. 4 – Fig. 6 of Summerell);

receiving in the health care center terminal the health information entered in the diagnostic form; transmitting the received health information to an analytic server connected to the health care center terminal, the analytic server having a

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health information data base associated with the entered health information

(abstract and col. 7, line 48 – col. 8, line 7 of Summerell);

receiving the transmitted health information in the analytic server;

analyzing the user's health in the analytic server on the basis of the health

information data base and the health information received in the analytic server;

and transmitting via the health care center terminal to the user terminal the

information analyzed by the analytic server in the analyzing step (abstract, col. 5,

lines 41-44, and col. 4, lines 42-57 of Summerell).

(N) Claim 14 repeats the same limitations of claim 13 and is rejected for the

same reasons given for that claim.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a health potential summary and incentive system (4,464,122); a system and method for developing and selecting a customized wellness plan (US 6,269,339 B1); an apparatus for monitoring health, wellness and fitness (US 2002/0019586 A1); and a method and apparatus for health and disease management combining patient data monitoring with wireless internet connectivity (US 2001/0047125 A1).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is

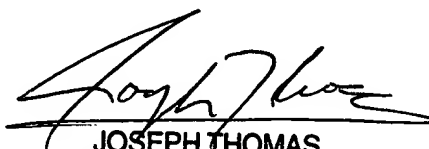
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571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN
In
12-2-05


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER